

SENTENCING COMMISSION

MINUTES

Committee:	SENTENCING COMMISSION MEETING
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Date:	Wednesday, October 1, 2003	Time:	12pm-2pm	Place:	Matheson Courthouse Conf. Room A
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Members Present	Sheriff Phil Barney, Senator Gregory Bell, Paul Boyden, Judge Jeffrey Burbank, , Scott Carver, Blake Chard, K.S. Cornaby, Mary S. Corporon, Senator Mike Dmitrich, Judge Paul Maughan, Rep. Ty McCartney, Ed McConkie, G. Fred Metos, Brian Namba, Judge Gregory K. Orme, Kathy Reimherr, Chief Ed Rhoades, Michael Sibbett, Sy Snarr, Rep. Mike Thompson,
Members Excused	Judge Terry Christiansen, Calvin Clegg, Marlene Gonzalez, John Hill, Jim Marchel, Kirk Torgenson, Judge Robert S. Yeates
Staff	Cliff Butter, Chris Mitchell, Ron Gordon, Jo Lynn Kruse, Katie Warner and visitors Tom Brunker, , Russ Van Vleet, Fred Voros

Agenda Item:	Welcome and Approval of Minutes
Notes:	Kay Cornaby welcomed the commission and visitors. Judge Orme motioned to approve the September minutes. Rep. Mike Thompson seconded . Passed unanimously. Departing members Chris Mitchell and Russ Van Vleet were recognized for their years of service to the commission.

Agenda Item:	Death Penalty Amendments – Ron Gordon
Notes:	<p>The primary arguments against retroactive application were avoiding delay and concern for victims' families. If the repeal of the firing squad is applied retroactively, the four inmates who have selected firing squad as their method of execution will almost certainly appeal. All who have addressed the Sentencing Commission on these potential appeals are confident that courts will uphold the retroactive application of the repeal. However, litigating those issues may take years.</p> <p>Some commission members expressed concern that further delaying the execution of a death row inmate will be harmful to the victim's family and friends. Other commission members wondered if applying the repeal retroactively sends the message that the commission does not care about victims.</p> <p>Three primary arguments were articulated in favor of retroactive application of the repeal of the firing squad. First, the Sentencing Commission voted unanimously to recommend repeal of the firing squad for sound policy reasons and those reasons apply to offenders who have already chosen the firing squad as well as to those offenders who will be convicted in the future. Second, prospective only application means that Utah will likely not conduct its last firing squad for ten or fifteen years. Third, though the potential for delay exists, the harm caused to the state and the victims' family by the offender choosing the firing squad is more harmful than any potential delay. Additionally, for three of the four inmates who have chosen firing squad, any appeals of the repeal of the firing squad may occur simultaneously with other appeals. Thus, the execution might not be delayed by a retroactive application.</p> <p>Chief Rhoades motioned to apply the amendment prospectively only. Sy Snarr seconded. Ed McConkie made a substitute motion that the amendment be applied retroactively as well as prospectively. Rep. Ty McCartney seconded. The motion passed with Mary Corporon and Fred Metos abstaining.</p>

Agenda Item:	Female Offenders – Chris Mitchell
Notes:	Women have much less serious offenses as a whole compared to men. Women start their criminal career at an older age. Men are more likely than women to be in prison without prior probation or prison experience. This shows that women are more likely to get the opportunity of probation and women get to prison by failing on probation. This is true for all offense types. Women serve shorter sentences for the same offense as men while the rate of return is the same. Women make up about seven percent of the prison population.

Agenda Item:	Voyeurism Amendments – Ron Gordon
Notes:	In the 2003 general legislative session, a new voyeurism statute passed. Ron discussed draft legislation aimed at some problems created by the new voyeurism statute. The new statute deals primarily with offenders who use electronic equipment in the commission of the offense, but does not adequately address those offenders who engage in voyeurism without using any type of equipment. This bill clarifies the application regarding those who do commit voyeurism with the aid of equipment. Fred Metos motioned to approve the bill, Paul Boyden seconded . It passed unanimously .

Agenda Item:	Resources Subcommittee Report- Sentencing policy for drug crimes
Notes:	The subcommittee discussed sentencing of first degree felony drug offenders. Ron introduced a draft bill recommended by the subcommittee which establishes alternative minimum terms of 3, 5, or 7 years for first degree felony drug offenses. It provides a sentencing judge with discretion in establishing the minimum term for first degree felony offenses. Excluded from the bill are offenders convicted of a drug king pin offense, which mandate a sentence of 7 years to life. It was decided to debate the issue at next month's meeting.

Agenda Item:	Mail Theft – Ron Gordon
Notes:	Currently the penalties for the crime of mail theft are based on the dollar value of the item stolen. The problem is that determining the value of the mail stolen is difficult. Most offenses are prosecuted as class B misdemeanors because the value of the mail cannot be determined. However, some prosecutors have suggested that mail theft is often more serious than a class B misdemeanor, for instance when the mail stolen is a credit card application. The Commission will further discuss this issue next month.

The next meeting is scheduled for Wednesday, November 5, 2003 at noon, Matheson Courthouse, Conference Room B & C
Minutes prepared by Jo Lynn Kruse - Executive Secretary CCJJ